Lawrence E. Culleen Lawrence_Culleen@aporter.com 202.942.5477 202.942.5999 Fax 555 Twelfth Street, NW Washington, DC 20004-1206

April 20, 2012

Honorable Jim Jones
Acting Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code 7101M
Washington, DC 20460

Dear Assistant Administrator Jones:

I write to bring to your attention online sales to the general public of rodenticides that do not comply with the Agency's Risk Mitigation Decision ("RMD") for certain rodenticides. These sales undermine EPA's professed goals of minimizing opportunities for wildlife exposures and children's exposures to these rodenticides, and significantly eclipse the risks imputed in the RMD to products marketed by Reckitt Benckiser Inc. Perversely, however, it is Reckitt Benckiser's products that may become subject to cancellation actions threatened by your office.

Background

In 2008, EPA issued its final RMD for certain rodenticides, effective June 2011, significantly limiting their distribution and use. To minimize children's exposure to rodenticide products used in homes, the RMD provides that rodenticides intended for consumer-use: 1) may be sold only with tamper-resistant bait stations; 2) may be sold only in block form; and 3) are limited to a total maximum net contents of one pound of bait. To reduce ecological risks, consumer products may no longer be formulated with certain rodenticides known as second generation anticoagulants.

However, the RMD permits registrants to continue to sell products that do not meet these requirements, provided that they control distribution such that these products are distributed only in agricultural stores, farm and tractor stores, or directly to professional pest control operators ("PCOs"). In other words, rodenticides marketed for agricultural and professional use may be sold in large quantities, without a bait station, in pellet form, and contain second-generation anti-coagulants, while rodenticides marketed to consumers may have none of these characteristics. The stated goal of this measure is

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to "dramatically reduc[e] the overall use of second generation anticoagulants by limiting the availability of those products on the general consumer market" without burdening the agricultural industry or limiting the options available to PCOs.

Reckitt Benckiser has chosen not to voluntarily cancel its consumer-use rodenticides containing second-generation anticoagulants, because the Company believes that these products, as currently marketed, are safe, effective, and provide consumers with affordable means of reducing the risks to public health and safety presented by rodent infestations. Consumers must agree, because our d-CON products have long been the most widely used consumer rodenticide brand in the United States. However, as a result of the Agency's risk mitigation measures, we face cancellation of most of the rodenticide products in our d-CON product line. On November 2, 2011, the Agency issued its draft Notice of Intent to Cancel ("draft NOIC") certain consumer-use rodenticides affected by the RMD, which included several Reckitt Benckiser products.

Basis for This Request

Reckitt Benckiser has recently become aware that, despite the risk mitigation measures specified in the RMD -- which are the basis for the draft NOIC -- several rodenticide registrants are marketing their products, including many products containing second-generation anticoagulants and/or formulated as pellets rather than blocks, through online retailers who sell to the general public. These products are sold in bulk, in amounts up to 18 pounds per package, and invariably do <u>not</u> include even one tamper-resistant bait station. For example:

- Motomco's Jaguar brand, which is formulated with second-generation anticoagulant rodenticides, is available in 12-pound containers (pellets); 18-pound containers (blocks); and packages of 73 "place packs," i.e., pellets encased in individual packets designed to allow rodents to gnaw through to the bait. None of these products is packaged with a bait station of any kind. All are being marketed through Amazon.com, and two of the three are also being sold online via Sears.com, Newegg.com, and Buy.com.
- Motomco also sells its Hawk Bait Chunx Rat & Mice Killer, another product made with second-generation anticoagulants, through Sears.com, Amazon.com, and Newegg.com. The plastic pail in which the product is packaged contains 9 pounds of rodenticide in block form and does not include a bait station.
- Just One Bite, marketed by Farnham, is available online through eBay, Ace Hardware, and Amazon.com in a package containing 86 place packs totaling

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approximately 8 pounds. The active ingredient in this product is a second-generation anticoagulant.

These are just a few examples; attached is a table of the many bulk rodenticide products available through online retailers, along with an exhibit of web-based advertisements. Moreover, they can easily be found through a search engine; a Google Shopping search brings up dozens of results. When they are sold in these channels, nothing prevents consumers from buying these bulk products for household use, particularly as they are sold by well-known retailers with an extensive online footprint.

The availability of these products online is a matter of concern for at least two reasons: First, to the extent that these products are being purchased and used by ordinary consumers, the Agency's efforts to mitigate potential risks to children and wildlife are mooted, and directly undercut the purported risk reduction that EPA asserts is the basis for the draft NOIC. Indeed, cancelling the sales of small-quantity consumer-use products makes little sense if EPA continues to allow the bulk sales of the same active ingredients in the same configuration that would be banned under the draft NOIC. Second, certain registrants are marketing their products, which do not comply with requirements for consumer-use products, through channels that cannot fairly be characterized as either agricultural or direct to professional pest control operators.

It would be grossly unfair for the Agency to continue to pursue cancellation of consumer-use rodenticides, such as Reckitt Benckiser's, while allowing other registrants to market literal buckets of similar products to the online shopping public. Moreover, EPA's ongoing inaction in the face of manufacturers of bulk products continuing to exploit this loophole directly undercuts the Agency's stated public health and environmental goals — which provide the basis for the proposed cancellation of many of Reckitt Benckiser's rodenticide products. To deny consumers access to a 16-ounce package of d-CON, while enabling them to purchase 16 pounds of a competitor's product, would be arbitrary and capricious and contrary to the risk-benefit balancing test required by FIFRA.

Action Requested

We believe that the Agency, having been made aware of the foregoing facts, will share our concern that its regulatory policies with respect to rodenticides are being circumvented, with the potential for unfortunate consequences. We therefore respectfully request: (i) that EPA withhold any further action on the draft NOIC until it reviews this situation and confers with stakeholders to find an appropriate solution; (ii) that EPA investigate the sale of bulk rodenticides through online retailers to the general public and

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evaluate the extent to which these bulk sales are responsible for adverse human health and wildlife effects; (iii) that EPA, based on the results of that evaluation, modify the RMD accordingly; (iv) that the Agency consider taking action against the registrants if violations of FIFRA are occurring; and (iv) that we be kept apprised of the Agency's investigation, findings, and other measures in this matter.

We would be pleased to meet with you directly to discuss with you the potential ways in which the RMD could be modified or improved to address these concerns. We look forward to hearing from your office.

Sincerely,

Lawrence E. Culleen

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Counsel to Reckitt Benckiser

Enclosures

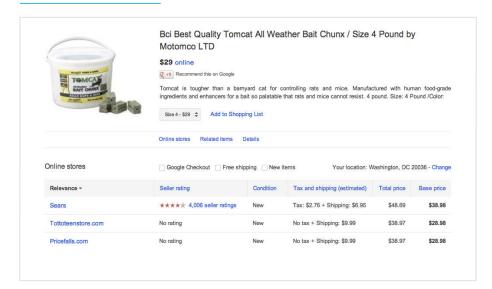
cc: Steven Bradbury, Office of Pesticide Programs

Richard Keigwin, OPP/RRD Cynthia Giles, AA/OECA

Table of Selected Bulk Rodenticide Products Available Online

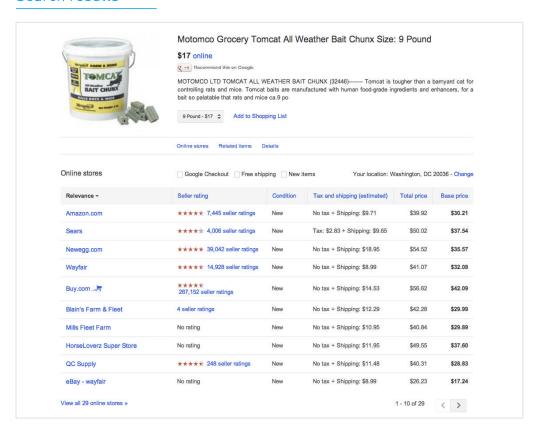
Brand name	Registration #	Manufacturer	Active Ingredient	Active Ingredient Type	Product Amount	Product Form	Packaged with Bait Station?	Available at:
Jaguar Rodenticide		Motomco	Brodifacoum	Second-Generation Anticoagulant	12lb	pellets	no	Wayfair Sears Newegg Buy.com Aubuchon Hardware Amazon
Jaguar Bait Chunks		Motomco	Brodifacoum	Second-Generation Anticoagulant	18lbs	blocks	no	Wayfair Sears Newegg Buy.com Aubuchon Hardware Amazon
Jaguar Rodenticide Place Pacs		Motomco	Brodifacoum	Second-Generation Anticoagulant	8lb	place packs	no	Amazon
Jaguar Rodenticide		Motomco	Brodifacoum	Second-Generation Anticoagulant	12lbs	pellets	no	Wayfair Sears Newegg Buy.com Aubuchon Hardware Amazon
Hawk Bait Chunx Rat & Mice Killer		Motomco	Bromadialone	Second-Generation Anticoagulant	9lb		no	Wayfair Sears Newegg Buy.com Amazon
Agrid3		Motomco	Bromadialone	Second-Generation Anticoagulant	5lb, 10lb	pellets	no	Planet Natural Aubuchon Hardware
Contrac Blox Rodent Control		Farnham	Bromadialone	Second-Generation Anticoagulant	18lb	block	no	eBay Do It Yourself Pest Control Amazon
Just One Bite Job II		Farnham	Bromadialone	Second-Generation Anticoagulant	4lb, 8lb, 12lb	chunks	no	Amazon Ace Hardware Outlet

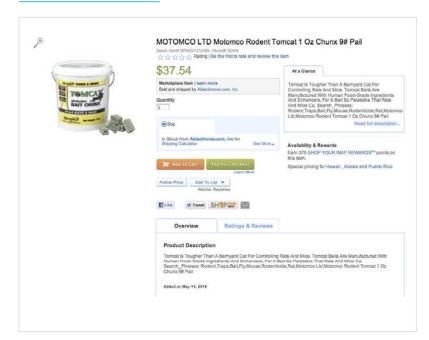
Brand name	Registration #	Manufacturer	Active Ingredient	Active Ingredient Type	Product Amount	Product Form	Packaged with Bait Station?	Available at:
Just One Bite Ex		Farnham	Bromadialone	Second-Generation Anticoagulant	4lb	place packs	no	Lawn & Garden eBay Amazon Ace Hardware
Kaput Combo Bait		Scimetrics	Warfarin	First-Generation Anticoagulant	4lb	blocks	no	ePetSolutions Amazon
Kaput Combo Bait		Scimetrics	Warfarin	First-Generation Anticoagulant	32 place packs/250 place packs	place packs	no	ePetSoluions Amazon
Kaput Rat Mouse Vole Bait		Scimetrics	Warfarin	First-Generation Anticoagulant	32 place packs/60 place packs	place packs	no	ePetSolutions Amazon
Tomcat All Weather Bait Chunx		Motomco	Bromethalin	Non-Anticoagulant	4lb, 9lb	block	no	Wayfair Sears Newegg Buy.com Amazon
Terad3 Blox		Bell Labs	Cholecalciferol	Non-Anticoagulant	4lb, 18lb		no	DoMyOwnPestControl.com Atomic Mall/American Pest Supplies
Ramik Green Nuggets		Neogen	Diphacinone	Non-Anticoagulant	4lb	pellets	no	Newegg Do it Best Amazon Ace Hardware Outlet

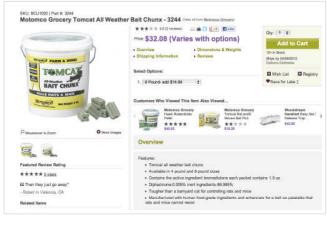


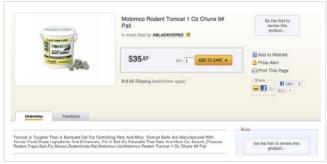


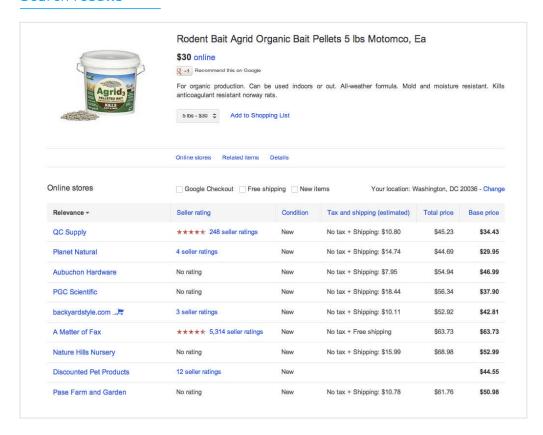


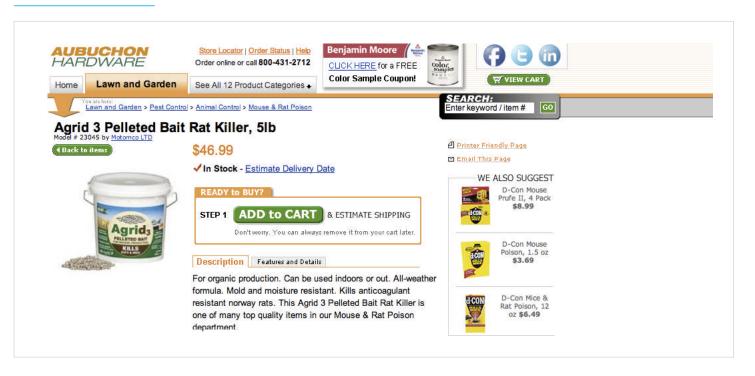


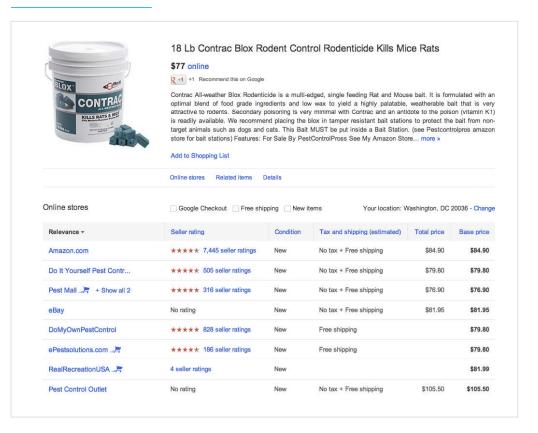




















Kaput rat mouse vole bait - 32 place packs 61305

4lb. bucket contains easy to use place packs with green grain bait and Warfarin. Kills Norway & Roof rats, house mice, voles. Kaput Rat & Mouse ... Add to Shopping List



Kaput rat mouse vole bait - 60 place packs 61110
7.5lb. bucket contains easy to use place packs with green grain bait and Warfarin.
Kills Norway & Roof rats, house mice, voles. Kaput Rat & Mouse ... Add to Shopping List



Kaput rat mouse vole bait - 150 place packs 61225

18.75lb. bucket contains easy to use place packs with green grain bait and Warfarin. Kills Norway & Roof rats, house mice, deer mice, white-footed ...



Kaput Rat Mouse Vole Bait - 60 Place Packs

Kaput Rat Mouse Vole Bait - 60 Place Packs Product Code: 2187 7.5lb, bucket contains easy to use place packs with green grain bait and Warfarin ... Add to Shopping List



Kaput Rat Mouse Vole Bait - 150 Place Packs
Kaput Rat Mouse Vole Bait - 150 Place Packs Product Code: 87921 18.75lb.
bucket contains easy to use place packs with green grain bait and ... Add to Shopping List



Kaput Rat and Mouse 32 Place Packs Rodent Bait

Kaput Rat and Mouse 32 Place Packs Rodent Bait : Kaput Rat & Mouse Bait is a reduced-risk rodenticide that kills Norway rats, Roof rats, house ... Add to Shopping List

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\$99.99

Free shipping Amazon.com ★★★★ 7,445 reviews

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Kaput combo bait mini pellets 32 place packs (2 pails)
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Kaput combo bait mini pellets 32 place packs (4 pails)
Kaput Combo Rat Bait Pellets deliver the first rodenticide that also eliminates fleas for an all-around approach to pest control. The bait is ...



Kaput Combo Bait Pellets 100 Place Packs 88440 4165435 Kaput Combo Bait Pellets deliver the first rodenticide that also eliminates fleas for an all-around approach to pest control. The bait is ...

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Kaput combo bait pellets 100 place packs 88440
Kaput Combo Bait Pellets deliver the first rodenticide that also eliminates fleas for an all-around approach to pest control. The bait is ...



Kaput Combo Bait Pellets 32 Place Packs KAP008 Kaput Combo Bait Pellets 32 Place Packs KAP008: Kaput Combo Bait Pellets

deliver the first rodenticide that also eliminates fleas for an all .. Add to Shopping List



Kaput Combo Bait Pellets 250 place packs 88445 Kaput Combo Bait Pellets Item number 088445 Kaput Combo Bait Pellets deliver

the first rodenticide that also eliminates fleas for an all-around ... Add to Shopping List



Kaput Combo Bait Mini Pellets 32 Place Packs

Kaput Combo Bait Pellets Item number 088404 Kaput Combo Rat Bait Pellets deliver the first rodenticide that also eliminates fleas for an all ... Add to Shopping List

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Kaput combo bait mini blocks 4 lb pail kap005

Bait Mini Blocks Kaput Combo Bait Mini Blocks deliver the first rodenticide that also eliminates fleas for an all-around approach to pest control ... Add to Shopping List



Kaput combo bait mini blocks (4) 4lb pails

Kaput Combo Bait Mini Blocks deliver the first rodenticide that also eliminates fleas for an all-around approach to pest control. The bait is ... Add to Shopping List



Kaput Combo Bait Mini Blocks 4lb
Combo Bait Mini Blocks Kaput Combo Bait Mini Blocks deliver the first rodenticide that also eliminates fleas for an all-around approach to pest ... Add to Shopping List



Kaput adios combo bait cubes 4 lb pails 180004

Adios Combo Bait Cubes Adios Combo Bait Cubes is the first rodenticide that also reduces flea populations for an all-around approach to pest ... Add to Shopping List



Kaput Combo Bait Mini Blocks 4 Lb Pail Kap005

Bait Mini Blocks Kaput Combo Bait Mini Blocks deliver the first rodenticide that also eliminates fleas for an all-around approach to pest control .. Add to Shopping List

\$44.99

Free shipping Amazon.com

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Free shipping Amazon con **** 7,445 reviews

\$36.99

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\$73.98 with est. tax & shipping **** 7.445 reviews

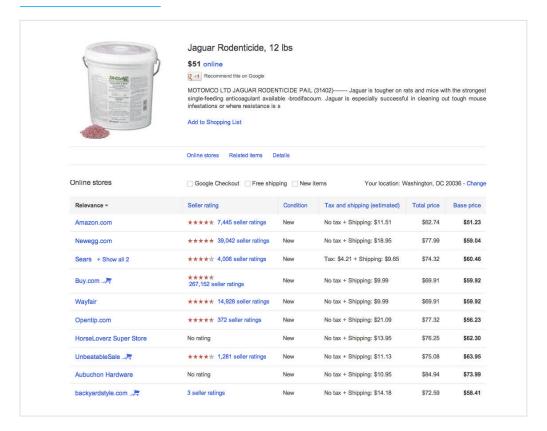
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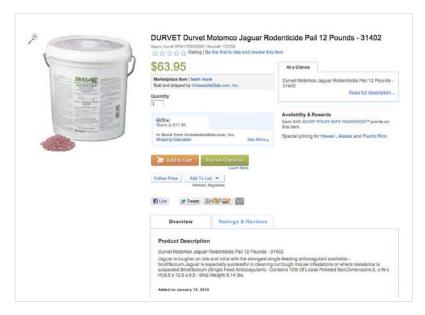
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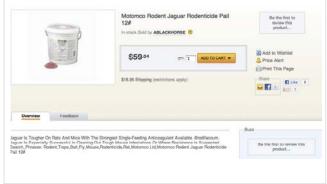
Compare prices

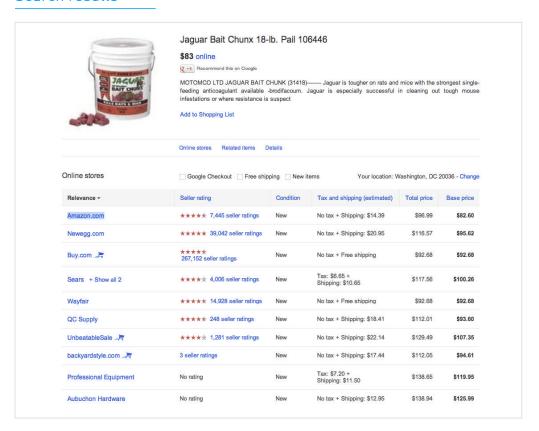






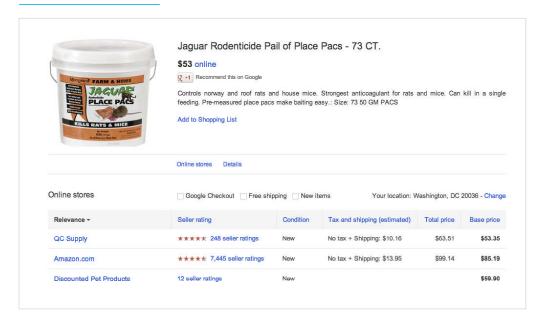




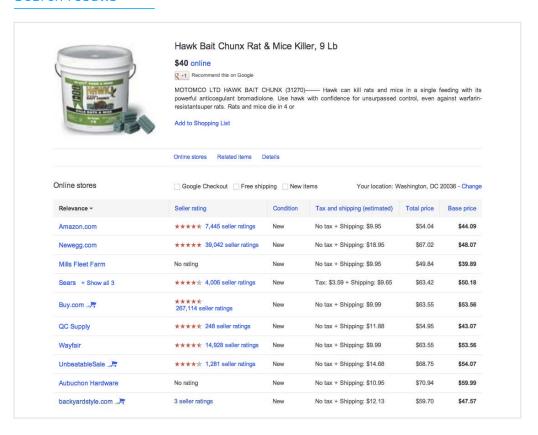


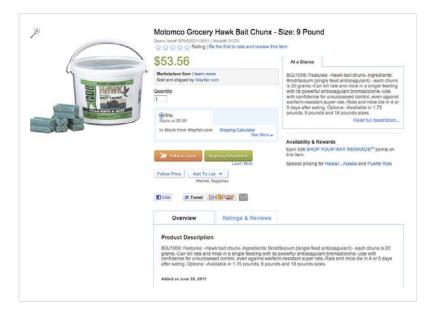




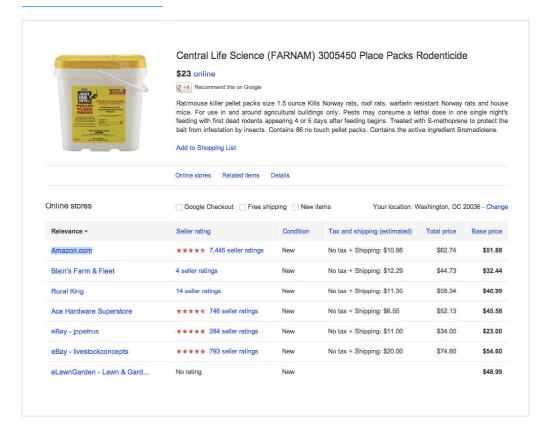






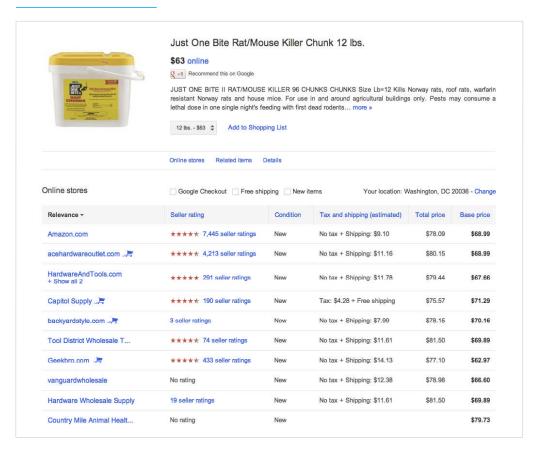


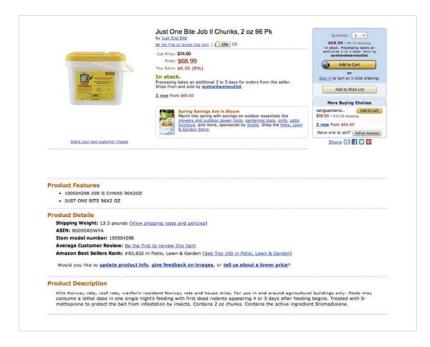


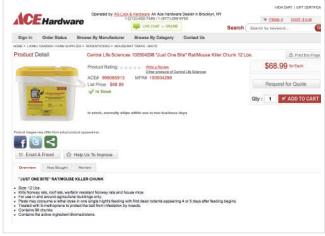


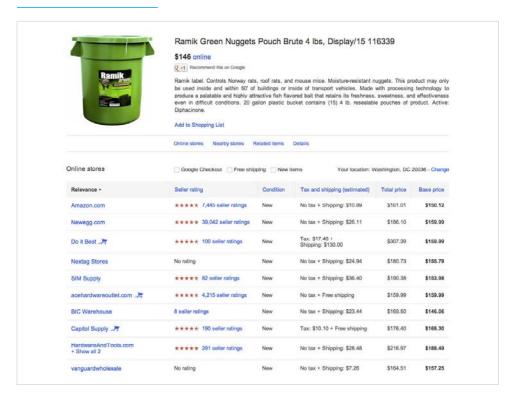


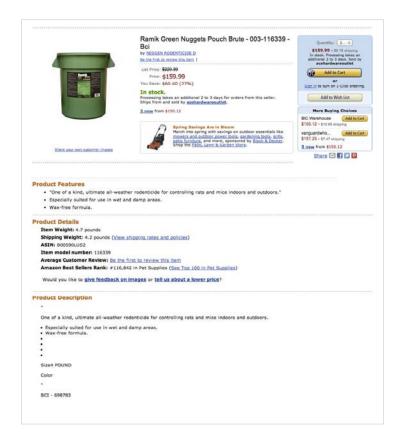














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4Lbs Terad3 Rodent Rat Mouse Bait Rodenticide Blox VitaminD3
4 Lb Pail Terad3 Blox Rodenticide With Vitamin D3 Reduces The Risk Of
Secondary Poisoning Terad3 Blox Rodent Rat Mouse Bait Vitamin D3 Reduced ...
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4lbs Terad3 Rodent Rat Mouse Bait Blox Vitamind3 Low Risk of

Secondary
4 Lb Pail Terad3 Blox Rodenticide With Vitamin D3 Reduces The Risk Of
Secondary Poisoning Terad3 Blox Rodent Rat Mouse Bait Vitamin D3 Reduced ...
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4lbs Terad3 Rodent Rat Mouse Bait Rodenticide Blox Vitamind3

4 Lb Pail Terad3 Blox Rodenticide With Vitamin D3 Reduces The Risk Of Secondary Poisoning Terad3 Blox Rodent Rat Mouse Bait Vitamin D3 Reduced ... Add to Shopping List

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